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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,467	02/27/2004	James R. Stelzer	5887-307U1	8565
570 7590 12/11/2007 AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			EXAMINER NGUYEN, DAT	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,467

Applicant(s)

STELZER ET AL.

Examiner

Dat T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-5,8,9,12,14-16,18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5,8,9,12,14-16,18 and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/11/2007 has been entered.

Response to Amendment

This office action is responsive to the amendments filed on 10/11/2007 in which applicant amends claims 3-5, 8, 12 and 21, adds new claims 22-24, cancels claim 2 and responds to claim rejections. Claims 3-5, 8, 9, 12, 14-16, 18 and 20-24 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, 20 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly (Kelly herein after) et al. (US 6,015,344).

Regarding claims 8 and 22: Kelly discloses an amusement system comprising:

A communication link having a communication medium and a wireless sub-system, the communication medium including a wireless broadcast signal (figure 4, 13:10-14:10);

A first amusement device having a video touch screen (figure 2, 8:13), a controller (feature 12, 7:20-40, 14:10-36), an input component (the video touch screen, or any of the listed components for feature 16, 8:1-25), and a memory (feature 30 and 32), the memory of the first amusement device storing a plurality of video games playable on the first amusement device using at least the video touch screen (14:20-36, 16:16-32), the first amusement device being operable upon receipt by the input component of at least one of coins, currency, and a credit card/debit card (feature 14, 7:40-67); and

regarding the limitations of feature (c), Kelly discloses that the system may comprise many of the same device that is a second device may be the same as the first and linked to the first using a communication link as depicted in figure 4, features 10a and 10b and the detailed description thereof.

The wireless sub-system including:

A wireless adapter coupled to the first amusement device (14:1-10), the first wireless adapter encoding communication signals onto the wireless broadcast signal and decoding communication signals from the wireless broadcast signal; and

regarding the second wireless adapter, as stated above, the second machine in the system of Kelly is merely another instance of the first machine and therefore includes all of the features and components of the first.

Further regarding the method step limitations of claim 22, the claimed method steps are discussed above and many of which are inherent in the operation of the game

system of Kelly. For instance, establishing communication signals between server and game machine or game machine and game machine (figure 4 and the detailed description thereof). Furthermore, regarding the encoding and decoding of communication signals, these steps are inherent to the invention as modems (14:1-10) inherently perform that task as it is their function in the system. Finally, Kelly discloses that players may play with one another over the network (16:44-58, 17:59-67).

Regarding claim 9, the broadcast signal is in the range of radio frequency (14:10).

Regarding claim 20, wherein the communication link forms a wireless local area network (17:59-67).

Regarding claim 23, please see rejection of claim 8 above.

Regarding claim 24, please see rejection of claim 8 and 20 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5, 12, 14-16, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al. (US 6,015,344) in view of Wells (US Pub. No. 2003/0064805).

Regarding claims 3, 12, 14 and 21, the claims are met by Kelly as discussed above in the rejection of claim 8 and further, the first and third devices of claim 12 are identical and considered to be another instance of the same device on the system of

multiple devices (figure 4 and the detailed description thereof). The second amusement device having an audio output (15:1-10). As discussed above, all the amusement devices are wirelessly linked to one another via a network connection facilitated by modems (14:1-10, 16:44-58).

Kelly does not explicitly disclose the ability for the user to access the controller of the second amusement device to cause the controller of the second amusement device to retrieve one of the music files stored from the memory of the second amusement device and output the retrieved music file to the audio output of the second amusement device. In a related patent publication, Wells teaches such an implementation wherein the user can be presented with a musical, movie or broadcast event selection upon request by storing and retrieving the required files onto the device ([0015] and [0023]) and outputting them to the video and audio output [0014]. Wells and Kelly are analogous art because they both teach wireless amusement systems. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to apply the known technique of allowing users to play multimedia and audio files on the amusement devices in order to yield the predictable result of increased enjoyment and entertainment to the users as it is well known that people like to be able to select their own music while playing games or watch entertainment programs if they wish to take a break from gaming. This feature increases the capability of the game device whereby increasing its appeal of not only patrons who wish to play games, but also those who wish to enjoy multimedia presentations as well which increases usage of the machine and revenue for owners.

Regarding claim 4, the second amusement device having a video touch screen (please see rejection of claim 8 above).

Regarding claim 5, Kelly discloses that a plurality of machines may be linked to one another using the communication medium (16:44-58, 17:59-67).

Regarding claim 15, see rejection of claim 9.

Regarding claim 16, see rejection of claim 8.

Regarding claim 18, see rejection of claim 20.

Response to Arguments

Applicant's arguments with respect to claims 3-5, 8, 9, 12, 14-16, 18 and 20-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is (571) 272-2178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen

/Scott Jones/
Primary Examiner,
Art Unit 3714